

REMARKS

Applicants confirm election of claims 1-23 and 33-40 for examination without traverse and without prejudice. Applicants also request examination of claim 45 which is directed to a “balloon having continuous...stiffening members,” as the Examiner describes the elected claims, and not to “a combination of a balloon and a stent,” as the Examiner describes the non-elected claims. Applicants reserve the right to file further applications directed to non-elected claims 24-32, 41-44 and 46-47. Claims 24-32, 41-44, and 46-47 are withdrawn from consideration.

The Examiner has objected to claim 5 the grounds that the phrase “at least one of the stiffening members overlaps another one of the stiffening members” is not clearly defined in the specification and has requested clarification. Applicants note that Figures 7C, 7D, 7E and 7F each illustrate an example of one stiffening member overlapping another stiffening member.

The Examiner has also objected to claim 6 on the grounds that the phrase “at least one of the stiffening members interdigitates with another one of the stiffening members” is not clearly defined in the specification and has requested clarification. Figures 7D, 7E and 7F each illustrate an example of one stiffening member interdigitating with another stiffening member.

Claims 1-2, 4, 8-9, 11-14, 16-20, 23, 33-35, and 37-40 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,102,904 to Vigil et al. (“the ’904 Patent”). Applicants respectfully traverse. Claims 1 and 33 recite that an expandable balloon includes “a plurality of longitudinally discontinuous stiffening members disposed along a perimeter of said balloon...wherein each stiffening member affects a configuration of an area of said perimeter.” Vigil et al., in contrast, shows a plurality of dispensers 20 mounted on a tubular sleeve 18. Col. 6, lines 59-62. The structure of Vigil et al. is readily distinguishable.

First, dispensers 20 are not “longitudinal stiffening members” as presumed by the Examiner.

Second, sleeve 18 is obviously not a balloon - sleeve 18 is perforated with a plurality of holes 52. Col. 8, lines 19-23 and Fig. 3A. Sleeve 18 cooperates with balloon 16 to define a fluid passageway 26. Col. 7, lines 5-7. However, the fluid passes through passageway 26, out holes 52 and out dispensers 20. See Fig. 12d. Thus, sleeve 18 is not a balloon. Sleeve 18 merely defines a portion of a fluid passageway.

In addition, dispensers 20 are mounted on sleeve 18 and not on balloon 16. Thus, dispensers 20 are not “disposed along a perimeter” of a balloon according to claims 1 and 33.

For the foregoing reasons claim 1 is distinguishable from Vigil et al. Since claims 2, 4, 8-9, 11-14, 16-20 and 23 depend, directly or indirectly, from claim 1, and claims 34-35 and 37-40 depend, directly or indirectly, from claim 33, they are each distinguishable from Vigil et al. for the same reasons.

Applicants specifically traverse each rejection of claims 2, 4, 8-9, 11-14, 16-20, 23, 34-35 and 37-40. Claims 19 and 20 are additionally distinguishable over Vigil et al. in that the dispensers 20 are not suitable to retain a stent or a stent-graft. Vigil et al. makes no mention of a stent or stent graft.

Claims 1 and 21 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,779,201 to Spahn (“the ’201 Patent”). Applicant respectfully traverses. Claims 1 and 21 are directed to stiffened dilating balloons. Spahn describes an “inflatable amusement device for treading on water” and not a dilating balloon. As shown in Fig. 4 of Spahn, a person fits inside the Spahn device. Spahn does not teach, disclose or suggest a dilating balloon which fits inside a person.

Claims 3 and 22 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the '904 Patent in view of U.S. Patent No. 5,242,397 to Barath et al. ("the '397 Patent"). Applicants traverse these rejections. Barath et al. does not remedy the deficiencies of Vigil et al. discussed above and thus, since claims 3 and 22 depend, directly or indirectly, from claim 1 they are each distinguishable from the combination of Vigil et al. and Barath et al. for the reasons set forth above.

More particularly, Barath et al. does not teach, disclose or suggest any stiffening members at all. Tubular extensions 10 of Barath et al. have no apparent stiffening effect on the surface of the balloon.

While Barath et al. does show a conventional radio-opaque platinum band on the shaft of the catheter, it does not suggest any placement of a radio-opaque marker at the perimeter of the balloon. Barath et al. simply incorporates a conventional radio-opaque marker. Applicants' invention is directed to placement of a radio-opaque marker at the perimeter of the balloon to enable (1) monitoring of the inflation state of the balloon as well as (2) monitoring of the precise location of the particular stiffening member. Barath et al.'s conventionally located markers on the catheter shaft are structurally and functionally different.

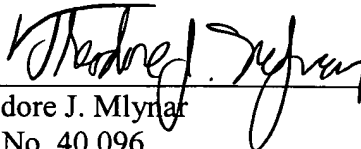
Claims 10, 15 and 36 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the '904 Patent in view of U.S. Patent No. 5,653,690 to Booth et al. ("the '690 Patent"). Applicants traverse these rejections. Booth et al. does not remedy the deficiencies of Vigil et al. discussed above and thus, since claims 10 and 15 depend, directly or indirectly, from claim 1, and claim 36 depends, directly or indirectly, from claim 33, they are each distinguishable from the combination of Vigil et al. and Booth et al. for the reasons set forth above.

Applicants acknowledge with appreciation the Examiner's indication that claim 7 defines allowable subject matter.

Early and favorable consideration of the foregoing remarks is earnestly requested.

Dated: July 14, 2003

Respectfully submitted,



Theodore J. Mlynar

Reg. No. 40,096

KRAMER LEVIN NAFTALIS & FRANKEL LLP

919 Third Avenue

New York, New York 10022

Tel.: (212) 715-9103

Fax.: (212) 715-8000